IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL NO. 1220 OF 2005
In
SPECIAL CIVIL APPLICATION NO. 10083 OF 1996
With
LETTERS PATENT APPEAL NO. 1221 OF 2005
In SPECIAL CIVIL APPLICATION NO. 7923 OF 1996
With
CIVIL APPLICATION NO. 8783 OF 2005
In LETTERS PATENT APPEAL NO. 1220 OF 2005
To
CIVIL APPLICATION NO. 8784 OF 2005
In LETTERS PATENT APPEAL NO. 1221 OF 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE B.J.SHETHNA

HONOURABLE MR.JUSTICE M.C.PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge?

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STATE OF GUJARAT & ANR. - Appellant(s)

Versus

BHIKHA BHAI BHULABHAI & ANR. - Respondent(s)

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Appearance :
MS. SANGEETA VISHEN, AGP for Appellant(s) : 1 - 2.
MR. P.H. PATHAK for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE B.J.SHETHNA

and

HONOURABLE MR.JUSTICE M.C.PATEL

Date : 16/11/2005

COMMON ORAL JUDGMENT
(Per : HONOURABLE MR.JUSTICE B.J.SHETHNA)

1. Both these appeals are admitted.

Learned Counsel, Mr.P.H.Pathak, appears and waives service for the respondents in both the matters.

At the request of the learned Counsel for the parties, both these matters are taken up for final disposal and being disposed of by this order.

2. Special Civil Application Nos.7923 and 10083 of 1996 were disposed of by the learned single Judge (H.K. Rathod, J.) by his common Judgement and Order dated 8th September, 2004 and Rule issued on both the matters as well as Civil Applications filed in it was discharged. While disposing of the matters, the learned single Judge has issued certain directions contained in paragraph-22 of his order, but, with certain observations made in the judgement. The directions issued by the learned single Judge in paragraph-22 of his judgement and order have been practically complied with by the appellants – State of Gujarat and Range Forest Officer, but, the present appeals are filed mainly against certain observations made by the learned single Judge in paragraph-9 at page-11, paragraph-11 at page-13, paragraph-16 at page-21 and paragraph-18 at pages-23 and 24 of his common Judgement and Order, as they are likely to come in the way of the appellants.

3. It was submitted by the learned Assistant Government Pleader, Ms.Sangeeta Vishen, that any observations made by the learned single Judge, while disposing of the petitions, are bound to come in their way before the Industrial Tribunal.

However, it was rightly submitted by the learned Counsel, Shri Pathak, for the respondents that they were all *prima facie* observations, which should never come in the way of the parties before the Industrial Tribunal as the Industrial Tribunal is supposed to decide the case on its own merits and on the basis of the evidence led by the parties and the material being placed before it.

4. We are of the considered opinion that the appeals would not lie against the observations made by the learned single Judge in his Judgement and Order. However, interest of justice would be served by observing that all the observations made by the learned single Judge in paragraph-9 at page-11, paragraph-11 at page-13, paragraph-16 at page-21 and paragraph-18 at pages-23 and 24, would not come in the way of the parties before the Industrial Tribunal and the Industrial Tribunal shall decide the cases before it strictly in accordance with law on its own merits on the material and evidence led before it, without being swayed away by the observations made in the Judgement and Order dated 8th September, 2004 passed by the learned single Judge.

5. With these observations, both these appeals are accordingly disposed of. No order as to costs. CAs also stand disposed of accordingly. [***B.J. Shethna, J.***]

[***M.C. Patel, J.***]

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